

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

United States of America,

Plaintiff,

v.

Kevin Joseph Fenner,

Defendant.

ORDER

Criminal No. 06-211(01)

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Jeffrey S. Paulsen, Assistant United States Attorney, Counsel for Plaintiff  
United States of America.

Defendant is *pro se*.

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This matter is before the Court on Defendant's *pro se* motion to Strike  
Information Alleging Prior Felony Drug Convictions.

The Defendant was convicted of multiple drug charges following a jury  
trial, and was sentenced to life in prison on December 10, 2008. His conviction  
and sentence were affirmed on appeal. United States v. Fenner, 600 F.3d 1014  
(8th Cir. 2010). The Defendant filed a timely petition to vacate his sentence  
pursuant to 28 U.S.C. § 2255, which motion was denied. Thereafter, the Eighth  
Circuit Court of Appeals denied the Defendant's application for a certificate of

appealability.

By his current motion, the Defendant asks that the Court resentence him “in keeping with the factors enumerated in 18 U.S.C. § 3553(a). Subject only to the potential mandatory minimum concurrent sentences of 10 years that would be applicable to Defendant.” Because he is challenging his sentence, the Court will construe the instant motion as a successive motion for relief under § 2255. Prior to filing such a motion, however, the Defendant is required to obtain a certificate from the Eighth Circuit Court of Appeals. 28 U.S.C. § 2255(h). As Defendant has not obtained such certificate, this matter is not properly before the Court.

IT IS HEREBY ORDERED that Defendant’s Motion to Strike Information Alleging Prior Felony Drug Convictions [Doc. No. 328] is DENIED.

Date: July 31, 2015

s/ Michael J. Davis

Michael J. Davis

United States District Court